

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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JAN KONOPCA,

Civil Action No.:

Plaintiff,

**COMPLAINT FOR  
VIOLATIONS OF THE  
TELEPHONE CONSUMER  
PROTECTION ACT**

-against-

**DEMAND FOR JURY TRIAL**

THE FINISH LINE, INC.,

Defendant.  
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Plaintiff JAN KONOPCA ("Plaintiff"), by and through his attorneys, The Law Office of Alan J. Sasson, P.C., as and for his Complaint against the Defendant THE FINISH LINE, INC., hereinafter referred to as Defendant, respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) under Title 47 of the United States Code, §227 commonly known as the Telephone Consumer Protection Act (TCPA).

**PARTIES**

2. Plaintiff is a resident of the State of New Jersey, residing at 3 Riverview Avenue, Long Branch, New Jersey.

3. Defendant THE FINISH LINE, INC., is an Indiana company with its address at 3308 North Mitthoeffer Road, Indianapolis, Indiana 46235.

**JURISDICTION AND VENUE**

4. The Court has jurisdiction over this matter pursuant to 28 USC §1331.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

**FACTUAL ALLEGATIONS**

6. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “5” herein with the same force and effect as if the same were set forth at length herein.

7. On information and belief, on a date better known to Defendant, Defendant began its campaign of communicating with the Plaintiff via the use of an auto-dialer and prerecorded messages on or about January 17, 2012 by calling his cell phone (732-222-2222) thirty-five (35) times according to Plaintiff’s phone records.

8. The Defendant called from the number of (888)777-3949, which number belongs to Defendant.

9. Plaintiff has no relationship with this company and asked them to stop contacting him. The Plaintiff did not give the Defendant permission to call his cell phone.

10. Despite the Plaintiff’s not giving his permission to be contacted on his cell phone and requesting that calls cease, the Defendant continued its campaign to call the Plaintiff’s cell phone. After the Plaintiff received the first five calls from the Defendant on January 17, 2012 he then called the Defendant back and requested they not call him again on his cell phone to no avail as Defendant then called Plaintiff thirty (30) more times.

11. By placing auto-dialed calls and prerecorded messages to the Plaintiff’s cell

phone, the Defendant violated 47 USC §227(b)(A)(iii) which prohibits using any automated telephone dialing system or an artificial prerecorded voice to any telephone number assigned to a cellular telephone service when calling to the plaintiff's cell phone.

12. The Defendant therefore willfully violated the TCPA 35 times after being requested to not call the Plaintiff's cell phone.

**FIRST CAUSE OF ACTION**  
*(Violations of the TCPA)*

13. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "12" herein with the same force and effect as if the same were set forth at length herein.

14. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

15. As a result of Defendant's violations of the TCPA, Plaintiff has been damaged and is entitled to damages in accordance with the TCPA.

**DEMAND FOR TRIAL BY JURY**

16. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant as follows:

A. For mandatory statutory damages of \$500 each provided and pursuant

to 47 USC §227(c)(2)(G)(3)(B), for the first five calls on January 17, 2012 for a total of two thousand five hundred (\$2,500.00) dollars;

B. Plaintiff requests trebled damages to be awarded to the Plaintiff in accordance with the TCPA, for each of the Defendant's thirty (30) willful or knowing violations of the TCPA, for additional damages of forty-five thousand (\$45,000.00) dollars, for a grand total of forty-seven thousand, five hundred (\$47,500.00) dollars;

C. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York  
March 20, 2014

Respectfully submitted,

LAW OFFICE OF ALAN J. SASSON, P.C.

By: /s/ Yitzchak Zelman  
Yitzchak Zelman, Esq. (YZ5857)  
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To: FINISH LINE, INC.  
3308 North Mitthoeffer Road  
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Clerk,  
United States District Court, Eastern District of New York  
(*For Filing Purposes*)